IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1733 OF 2005

M.A. Latif Chandiwala & Anr ...Petitioners

Versus

Mukhtar Ahmed Ansari & Ors ...Respondents

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Mr. M.P. Dalvi, Advocate for Petitioners

Mr. D.G. Bagwe, Advocate for Respondent No.1.

Mr. M.S. Mhambray, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 12TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioners, the learned advocate for the respondent No.1 i.e. original complainant and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of Complaint No.288/S/2001 which is pending in the Court of learned Additional Chief Metropolitan Magistrate, 9th Court at Bandra, Mumbai. In the said case, process has been issued against the petitioners mainly under Section 500 of I.P.C.. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing

process and the said process deserves to be set aside. If the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, stay granted by this Court by order dated 15.7.2005, is continued for a period of five weeks from today. The learned advocate for the respondent No.1 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge. The learned advocate for the petitioners states that they

will give one weeks advance notice in respect of moving the Sessions Court.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

7. Office to issue an authenticated copy of this order to the parties.

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